

HOUSE BILL NO. 540

INTRODUCED BY GALLIK, COHENOUR, HARRIS, JAYNE, JENT, JUNEAU, PARKER, LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE SELECTION OF TRIAL JURIES; PROVIDING THAT TRIAL JURORS MUST BE SELECTED FROM A COMBINED LIST OF QUALIFIED ELECTORS AND LICENSED DRIVERS AND HOLDERS OF MONTANA IDENTIFICATION CARDS; ENSURING THAT NO PERSON'S NAME APPEARS ON THE COMBINED LIST MORE THAN ONCE; ELIMINATING THE REQUIREMENT THAT JURORS MUST BE REGISTERED ELECTORS; AMENDING SECTIONS 2-6-109, 3-15-301, 3-15-402, 3-15-403, 3-15-404, AND 46-17-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Providing lists of licensed drivers and holders of Montana identification cards to clerks of district court -- jury selection purposes. (1) On the second Monday of May of each year, the department shall submit to the clerk of the district court of each county a list, prepared from the department's databases of licensed drivers and holders of Montana identification cards, showing the name, address, and date of birth of all licensed drivers and holders of Montana identification cards, authorized by 61-12-501, who are 18 years of age or older and whose address is in that county. The list must be compiled on a county-by-county basis and be further divided by the city of residence of the persons named on the list to enable the drawing of lists for city courts that are composed of only those residents living within a city's jurisdiction. The list must be provided for the exclusive purpose of making a list of persons to serve as trial jurors for the ensuing year.

(2) The list submitted by the department under subsection (1) must be certified by the attorney general or the attorney general's designee.

(3) The department may not provide the social security or driver's license numbers of persons on the list for any purpose.

Section 2. Section 2-6-109, MCA, is amended to read:

"2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty. (1) Except as

1 provided in subsections (3) through (9), in order to protect the privacy of those who deal with state and local
2 government:

3 (a) an agency may not distribute or sell for use as a mailing list any list of persons without first securing
4 the permission of those on the list; and

5 (b) a list of persons prepared by the agency may not be used as a mailing list except by the agency or
6 another agency without first securing the permission of those on the list.

7 (2) As used in this section, "agency" means any board, bureau, commission, department, division,
8 authority, or officer of the state or a local government.

9 (3) This section does not prevent an individual from compiling a mailing list by examination of original
10 documents or applications that are otherwise open to public inspection.

11 (4) This section does not apply to the lists of registered electors and the new voter lists provided for in
12 13-2-115, ~~or to lists of the names of employees governed by Title 39, chapter 31, or to lists of persons holding~~
13 driver's licenses or Montana identification cards provided for under [section 1].

14 (5) This section does not prevent an agency from providing a list to persons providing prelicensing or
15 continuing educational courses subject to state law or subject to Title 33, chapter 17.

16 (6) This section does not apply to the right of access by Montana law enforcement agencies.

17 (7) This section does not apply to a corporate information list developed by the secretary of state
18 containing the name, address, registered agent, officers, and directors of business, nonprofit, religious,
19 professional, and close corporations authorized to do business in this state.

20 (8) This section does not apply to the use by the public employees' retirement board of a mailing list of
21 board-administered retirement system participants to send materials on behalf of a retiree organization formed
22 for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the
23 Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the mailing list
24 is not released to the organization.

25 (9) This section does not apply to a public school providing lists of graduating students to
26 representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

27 (10) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."
28

29 **Section 3.** Section 3-15-301, MCA, is amended to read:

30 **"3-15-301. Who competent -- DUTY TO SERVE. ~~A~~ IT IS THE POLICY OF THIS STATE THAT ALL QUALIFIED**

1 CITIZENS HAVE AN OBLIGATION TO SERVE ON JURIES UPON BEING SUMMONED FOR JURY DUTY, UNLESS EXCUSED. Except
 2 as provided in 3-15-303, a person is competent to act as a juror if he the person is: a registered elector whose
 3 name appears on the most recent list of all registered electors, as prepared by the county registrar

4 (1) 18 years of age or older;

5 (2) a resident for at least 30 days of the state and of the city, town, or county in which the person is
 6 called for jury duty; and

7 (3) a citizen of the United States."
 8

9 **Section 4.** Section 3-15-402, MCA, is amended to read:

10 **"3-15-402. Selection of qualified persons.** (1) Subject to subsection (2), at the meeting specified in
 11 3-15-401, the officers present, WORKING WITH THE OFFICE OF THE SECRETARY OF STATE, shall select from the most
 12 recent list of all registered electors, as prepared by the county registrar, WORKING WITH THE OFFICE OF THE
 13 SECRETARY OF STATE, and make a list of the names of all persons qualified to serve as trial jurors, as prescribed
 14 in part 3 of this chapter. The officers, WORKING WITH THE OFFICE OF THE SECRETARY OF STATE, shall then combine
 15 the resulting list with the list submitted to the clerk of the district court under [section 1], ensuring that a person's
 16 name does not appear on the combined list more than once. Each name appearing on the combined list must
 17 be assigned a number that must be placed opposite the name on the jury combined list and must be considered
 18 the number of the juror opposite whose name it appears. A person's name may not appear on a jury combined
 19 list for more than one court during a 1-year term.

20 (2) The combined list prepared under subsection (1) may not include the name of a person permanently
 21 excluded from jury service under 3-15-313."
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23 **Section 5.** Section 3-15-403, MCA, is amended to read:

24 **"3-15-403. Lists delivered to clerk Jury lists -- filing -- public inspection.** (1) ~~A list of the names of~~
 25 ~~the persons selected, showing the place of residence and other proper particulars regarding each of them, so~~
 26 ~~far as those particulars can be conveniently ascertained, must be made out and signed by the officers or a~~
 27 ~~majority of them. Within 15 days after the meeting, the~~ The combined list prepared under 3-15-402 must be
 28 delivered by ~~those officers~~ the county clerk and recorder OFFICE OF THE SECRETARY OF STATE to the clerk of the
 29 district court and filed by the clerk of the district court in the ~~clerk's~~ clerk of the district court's office no later than
 30 5 business days after the receipt of the combined list.

1 (2) A copy of the latest jury list lists filed under subsection (1) and compiled under 3-15-404 and
2 46-17-202 and a description of the approved computerized random selection process, if one is used, must be
3 kept in the office of the clerk of court and be made available for public inspection during normal business hours.

4 ~~—— (3) If the clerk of court is satisfied that a person whose name is drawn is deceased or mentally~~
5 ~~incompetent or has permanently moved from the county, the name of the person must be omitted from the jury~~
6 ~~list. The reason for the omission must be entered in the minutes of the court."~~

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8 **Section 6.** Section 3-15-404, MCA, is amended to read:

9 **"3-15-404. Duty of jury commissioner -- jury box or computer database.** (1) The clerk of court is
10 the jury commissioner and may appoint a deputy pursuant to 7-4-2401.

11 (2) A county jury commissioner may by order establish the use of either a jury box, as provided in
12 subsection (3), or a computer database, as provided in subsection (4), as the means for selecting jurors in the
13 county.

14 (3) If a county uses a jury box for selection of jurors, the jury commissioner shall prepare and keep a
15 jury box and contents as prescribed in this subsection. The number of each juror must be written, typed, or
16 stamped on a slip of paper or other suitable material, identical in all respects to the slips used for the other
17 numbers. The slips must be placed in a box of ample size to permit them to be thoroughly mixed. The box must
18 be plainly marked "jury box". The slips may be used as often as necessary, except that none may be used that
19 is in any manner defaced or disfigured or so marked that it may be recognized or distinguished from the others
20 in the jury box except by the number on the slip. The box may contain only one slip for each number
21 corresponding to the number before the name of each juror on the jury list filed under 3-15-403.

22 (4) If a county uses a computer database for selection of jurors, the jury commissioner shall cause the
23 list of jurors ~~prepared under the provisions of 3-15-402~~ filed under 3-15-403 to be entered into a computerized
24 database.

25 (5) A person's name may not appear on a jury list for more than one court during a 1-year term.

26 (6) The clerk of court shall prepare a jury list for the district court or each division of the district court.

27 (7) IF THE CLERK OF COURT IS SATISFIED THAT A PERSON WHOSE NAME IS DRAWN IS DECEASED, MENTALLY
28 INCOMPETENT, OR HAS PERMANENTLY MOVED FROM THE COUNTY, THE PERSON'S NAME MUST BE OMITTED FROM THE JURY
29 LIST. THE REASON FOR THE OMISSION MUST BE ENTERED IN THE MINUTES OF THE COURT."

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1 **Section 7.** Section 46-17-202, MCA, is amended to read:

2 **"46-17-202. Formation of trial jury for justices', municipal, and city courts.** (1) At the time of
3 preparing the district court jury list under 3-15-404(6), the ~~county commissioners and clerk and recorder~~ clerk
4 of the district court shall prepare a jury list for each justice's, municipal, and city court within the county. Each
5 list must consist of residents of the appropriate county, city, or town. The lists must be selected in any reasonable
6 manner that ensures fairness, and each list must include a number of names sufficient to meet the annual jury
7 requirements of the respective court. Additional lists may be prepared if required. The lists must be ~~filed~~ kept
8 on file in the office of the clerk of the district court as provided in 3-15-403. The appropriate list must be posted
9 in a public place in each county, city, or town, and the list must comprise the trial jury list for the ensuing year
10 for the county, city, or town.

11 (2) Trial jurors must be summoned from the jury list by notifying each one orally that the person is
12 summoned and of the time and place at which attendance is required."

13

14 NEW SECTION. Section 8. Codification instruction. [Section 1] is intended to be codified as an
15 integral part of Title 61, chapter 5, part 1, and the provisions of Title 61 apply to [section 1].

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17 NEW SECTION. Section 9. Effective date. [This act] is effective October 1, ~~2004~~ 2005.

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19 NEW SECTION. Section 10. Applicability. [This act] applies to combined jury lists compiled partly
20 from the lists submitted under [section 1] by the department of justice to the clerks of the district courts on and
21 after the second Monday of May ~~2005~~ 2006.

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